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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,230	10/12/2005	Oliver Feilen	8369.005.US0100	7194
77176 7590 11/24/2008 Novak, Druce & Quigg LLP 1300 I Street, N.W. Suite 1000, West Tower WASHINGTON, DC 20005				
EXAMINER				
TRAORE, FATOUMATA				
ART UNIT		PAPER NUMBER		
2436				
MAIL DATE		DELIVERY MODE		
11/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,230

Applicant(s)

FEILEN ET AL.

Examiner

FATOUMATA TRAORE

Art Unit

2436

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD/CS)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the amendment filed September 11, 2008. Claims 1-9 are pending and have being considered below.

Response to Arguments

2. Applicant's arguments filed 09/11/2008 have been fully considered but they are not persuasive.

Applicant argues, "Although the Masachika system provides a control unit 12 with memory and a control unit 62 with memory, control unit 12 functions responsive to the signal emitted by key 52 only to activate just device 46 or both device 46 and control unit 62. It does not provide for monitoring any manipulation of any memory of control unit 62 as provided in Applicants claims. Accordingly, it is submitted that Masachika cannot be construed to anticipate the claimed invention. Furthermore, it is submitted that none of the secondary references cited teach any modification of Masachika to provide any monitoring feature to arrive at the claimed invention." The examiner respectfully disagrees and submits Masachita discloses a step of monitoring any manipulation of any memory of control unit (see paragraphs [0016]-[0022]). Masachita further discloses that the limiting means provides limitation by prohibiting alteration of setting values for the setting value storing means and therefore no alteration of the setting value for each vehicle occupant is made in the memory or the like.

To the extent that the response to the applicant's arguments may have mentioned new portions of the prior art references which were not used in the prior office action, this

does not constitute new a new ground of rejection. It is clear that the prior art reference is of record and has been considered entirely by applicant. See *In re Boyer*, 363 F.2d 455, 458 n.2, 150 USPQ 441,444, n.2 (CCPA 1966) and *In re Bush*, 296 F.2d 491,496, 131 USPQ 263, 267 (CCPA 1961).

The mere fact that additional portions of the same reference may have been mentioned or relied upon does not constitute new ground of rejection. *In re Meinhardt*, 392, F.2d 273, 280, 157 USPQ 270, 275 (CCPA 1968).

In light of the foregoing, the rejections are sustained and this Office action is made final.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Masachika (EP 0 957 016 A1).

Claims 1 and 5: Masachika discloses a device and a process for protecting at least one motor vehicle component against manipulation in a control device(*Abstract*), which comprises at least one microcomputer (*Fig.1, item 14*) and at least one memory module (*paragraph [0035]; Fig. 1, item 12*)said method comprising:

- i. Dividing a code necessary for operation of the control device into at least one master code(*inherent code which equates the invention sub code*)(paragraphs [0040]-[0042]), said master code which comprises information essential for operation of the control device (*paragraph [0040]-[0041]*), and at least one sub-code, said sub-code which comprises additional information for operation of the control device (sub-key which equates the invention sub code) (*paragraphs [0040]-[0042]*),
- ii. Storing at least the master code in the microcomputer (*paragraphs [0036]-[0040]*),and
- iii. Causing the master code to monitor manipulation of the sub-code (*paragraphs [0036]-[0040]*)

Claims 3 and 7: Masachika discloses a device and a process for protecting at least one motor vehicle component as in claims 1 and 6 above, and further discloses wherein said storing step comprises storing the sub-code in a rewritable area of the microcomputer (*paragraphs [0036]-[0040]*).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- a. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toyota et al (EP 0 957 016 A1) in view of Hayakashi (6,715,049).

a. **Claims 2 and 6** : Masachika discloses a device and a process for protecting at least one motor vehicle component as in claims 1 and 5 above, but does not explicitly disclose wherein said storing step comprises storing the master code in a read-protected area of the microcomputer, which is writable only once. However, Hayakashi discloses a microcomputer, which further discloses wherein said storing step comprises storing the master code in a read-protected area of the microcomputer, which is writable only once (*read protected register*)(column 2, lines 46-50;Fig. 4, item 13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Masachika such as to store the code in a read protected area of the microcomputer.. One would have been motivated to do so in order to secure the safety of data in a memory as taught by Hayakashi (column 1, lines 42-45).

7. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masachika (EP 0 957 016 A1) in view of Hayashi et al (5,912,512).

Claims 4 and 8: Masachika discloses a device and a process for protecting at least one motor vehicle component as in claims 1 and 5 above, but does not explicitly disclose wherein said storing step comprises storing the sub-code in a rewritable area of at least one external memory module. However, Hayashi et al

discloses an engine start control device and process , which further discloses wherein said storing step comprises storing the sub-code in a rewritable area of at least one external memory module (*column 11, lines 24-30*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Masachika such as to store the code in external memory module. One would have been motivated to do so in order provide security against stealing as taught by Hayashi et al (*column 1, lines 45-50*).

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masachika (EP 0 957 016 A1) in view of Hirota et al (6,715,049).

Claim 9: Masachika discloses a device for protecting at least one motor vehicle component as in claim 5 above, but does not explicitly disclose wherein at least one part of the sub-code is stored encrypted in a rewritable area and the master code is used to generate a key for decryption. However, Hirota et al discloses a microcomputer, which further discloses wherein at least one part of the sub-code is stored encrypted in a rewritable area and the master code is used to generate a key for decryption (*column 15, lines 10-45*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Masachika such to include an authentication unit. One would have been motivated to do so in order to protect the content of the memory device as taught by Hirota et al (*column 1, lines 15-21*).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fatoumata Traore whose telephone number is (571) 270-1685. The examiner can normally be reached Monday through Thursday from 7:00 a.m. to 4:00 p.m. and every other Friday from 7:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nassar G. Moazzami, can be reached on (571) 272 4195. The fax phone number for Formal or Official faxes to Technology Center 2100 is (571) 273-8300. Draft or Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 270-2685.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-2100.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

FT

Thursday, November 20 2008

/Nasser G Moazzami/

Supervisory Patent Examiner, Art Unit 2436